



# Maine Employee Rights Guide



Updates on regulations can be found at [www.Maine.gov/labor/](http://www.Maine.gov/labor/)  
(Click on Employee Rights Guide icon.)

The Maine Department of Labor provides equal opportunity in employment  
and programs. Auxiliary aids and services provided upon request.

Telephone: 207 624-6400 TTY: 207 624-6003 Fax: 207 624-6449

The purpose of this booklet is to explain the basic laws regarding employment. Some employment laws are federal and others are state.

The Maine Department of Labor can help you with many aspects of employee rights and can help you find other resources as well.

In addition to employee rights, the Department of Labor can help you with job seeking, career counseling, job safety, training and many other issues that affect one's work life. Some of these services are available through our statewide network of CareerCenters. For the location nearest you, call 1-888-457-8883, TTY 1-888-313-9400 (for people who are deaf or hard of hearing).

For more information on the topics in this booklet, contact the agencies listed or 207-624-6400, TTY 207-624-6003.

E-mail: [webmaster.bls@Maine.gov](mailto:webmaster.bls@Maine.gov)

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## Breaks

In a business with three (3) or more employees working at one time, employees have the right to take a 30-minute break after six (6) hours of work unless there is a written agreement otherwise.

### ? Frequently Asked Questions:

1. "Does my employer have the right to say I can't leave the building during my break?"

Yes.

2. "Does my employer have to pay me for the 30-minute break?"

No.



## Child Labor

Maine child labor laws cover when, where and how young people under 18 years old may work. Federal laws may differ. *A Guide to Maine Laws Governing the Employment of Minors* has more information about child labor laws. Available from Maine Department of Labor (See page 18.)

### Work Permit

Teenagers under 16 years old need a work permit in order to be employed (except in domestic or farm work), even if they work for their parents.

To apply for a permit, the youth must bring proof of age and a job offer to the school superintendent's office. The Maine Department of Labor must approve and issue the permit before the youth can begin work.



## Work Hours for Teens\*

### Minors under 16 years old

(Work Permit required)

#### Work hours

- Between 7 A.M. and 7 P.M.
- Between 7 A.M. and 9 P.M. during summer vacations only
- Not during school hours

#### Maximum hours

- 3 hours on school days, including Fridays
- 18 hours in any week with one or more school days
- 40 hours in a week with no school
- 8 hours on days without school (during weekends, holidays, vacations, storm days, etc.)
- No more than 6 days in a row

\*There are some exceptions for co-op (work-study) students, and students with an alternative educational plan with a work component.

### 16- and 17-Year-Olds

(enrolled in school, including home-school)

#### Work hours

- Not before 7 A.M. on a school day
- Not before 5 A.M. on a non-school day
- Not after 10 P.M. the night before a school day
- Not after midnight if there is no school the next day
- Minors under 17 cannot work during school hours

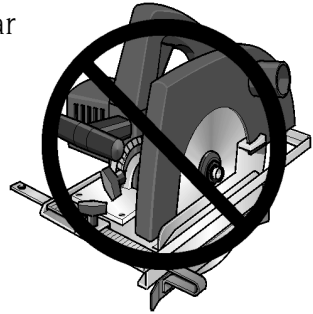
#### Maximum hours

- 4 hours a day on a school day; 8 hours a day on the last school day of the week
- 20 hours a week in any week with 3 or more school days (Exception: 8 hours each day with unscheduled school closure for a total of 28 hours that week, e.g., storm day, broken furnace, etc.)
- 50 hours a week each week with less than 3 scheduled school days, or during the first or last week of the school year
- 10 hours a day on weekends, holidays, vacations, teacher workshop days
- No more than 6 days in a row

## **Prohibited Work**

### **In Maine, no worker under 18 may:**

- Drive a motor vehicle on the job.
- Use powered equipment like a circular saw, hoist, box crusher, meat slicer, paper-products machine, or wood-working machine.
- Work in excavation, wrecking, demolition, manufacturing and storing explosives, or roofing.
- Work alone in a cash-based business.
- Work in confined spaces.
- Work at heights.



### **In addition to the above, no one 14 or 15 years old may:**

- Bake or cook on the job (except at a serving counter).
- Work in dry cleaners, commercial laundries, or bakeries (except in sales or office work).
- Perform warehouse or manufacturing work.
- Work in freezers or meat coolers.
- Work in most jobs at hotels, motels, and commercial places of amusement.
- Load or unload a truck, railroad car or conveyor.
- Work at any hazardous occupation.
- Work without a work permit.
- Operate power equipment including lawn mowers and cutting machines.

**These are partial lists.** For more information, contact the Maine Department of Labor, Wage and Hour Division (207-624-6400, TTY 207-624-6003), or the U.S. Wage and Hour Office (207-780-3344 or 207-945-0330).



## **Closing or Relocating Workplaces**

### **WARN**

If your company plans to close or move and has 100 or more workers, your employer must give you at least 60 days notice. (The Workers Adjustment and Retraining Notification Act, "WARN," 29 U.S.C. § 2101)

### **Severance Pay**

If a business with 100 or more employees closes or relocates more than 100 miles away, the business must notify the Maine Department of Labor or employees in advance. In many instances, employees who have worked at that business for three or more years must get severance pay. If the employee has to sue to get severance pay, he or she may get the legal costs back. (26 M.R.S.A. § 625-B)

## **Collective Bargaining (Unions)**

Employees have a right to form or join unions.

The National Labor Relations Act gives workers in private companies the right to form unions and to bargain with employers.

The Maine Labor Relations Board regulates union activities in most public workplaces and some farming workplaces.

The Maine Strikebreaker law (26 M.R.S.A. § 851-856) stops employers from hiring strikebreakers during a labor dispute.

For more information, call:

Maine Labor Relations Bd.  
90 State House Station  
Augusta, ME 04333  
(207-287-2015)  
(TTY 207-287-4330)

National Labor Relations Bd.  
Thomas P. O'Neill Jr., Fed Bldg.  
10 Causeway St., Room 601  
Boston, MA 02222-1072  
(617-565-6700)  
(TTY 617-565-6470)



## **Discrimination and Harassment**

### **Unlawful Discrimination**

Employers must not discriminate against workers because of race, religion, color, sex, age, national origin, or mental or physical disability.

It is not legal for a person to be treated as unequal because he or she is in one of these groups.

Everyone has a right to work in a place where there is no discrimination.

### **Disabilities**

The federal Americans with Disabilities Act (42 U.S.C. § 12101) and the Maine Human Rights Act (5 M.R.S.A. §§ 4551-4660-A) protect workers who have disabilities. Employers may not discriminate against workers with disabilities in hiring or firing and must make reasonable accommodations for such workers.

### **Sexual Harassment**

Sexual harassment on the job is against the law.

You have the right to work in a place free of sexual harassment.

No one can make you put up with sexual comment or physical contact to keep a job.

Laws that apply in your workplace are posted there. Take a look at the posters in your workplace so you will know where to find information if you need it. See page 11 for a list of those posters.

Here are some examples of sexual harassment:

- unwelcome sexual advances
- unwanted hugs, touching or kisses
- suggestive or obscene remarks
- requests for sexual favors

For more information, call the Maine Human Rights Commission (207-624-6050, TTY 207-624-6064).

## Domestic Violence

### Employment Leave for Victims of Domestic Violence

An employee who is a victim of domestic violence must be allowed time off from work with or without pay to prepare for and attend court proceedings; receive medical treatment; or obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking. The employee must request the time off. Effective July 25, 2002: Leave must also be allowed if the employee's child, parent or spouse is the victim.

## Drug Testing

You can be asked to take a drug test if Federal law requires it or if the company has a drug policy approved by the Maine Department of Labor.

Under the law, an employer can use a positive test result to:

- refuse to hire someone
- fire an employee (in some instances)
- discipline an employee (in some instances)
- change an employee's work (in some instances)

Those who apply for jobs may be tested only if they are offered work or are placed on a waiting list for a job. Employers who test under the law must give those tested a copy of the policy prior to the test.

### **?** Frequently Asked Questions:

1. "Can I say no to a drug test?"

*Yes, but if you do so, your employer may have the right to legally fire you or to refuse to hire you.*

2. "I tested positive, but I don't agree with these results. What can I do?"

*State Law allows you to request that a sample be tested at a lab you choose. Your employer must tell you how you can appeal the result.*

3. "Can I be fired for a positive drug test result?"

*An employer may not fire an employee the first time he or she tests positive, but may do so if he or she tests positive more than once.*

*Employers must offer employees who test positive six (6) months of rehabilitation. Employees can be fired if they refuse rehabilitation.*

4. “My employer uses breathalyser testing for alcohol. Can they do that?”

*Yes. Employers may test in this way whenever they wish.*

## **Family and Medical Leave**

Employers with 15 or more workers and all public agencies must give up to 10 weeks of unpaid but job-protected leave, if:

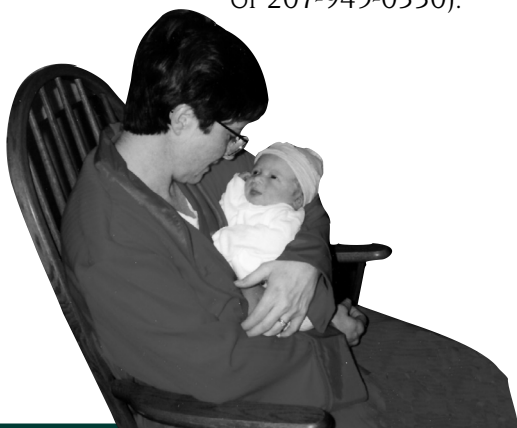
- a worker or the worker’s child, parent or spouse has a serious illness
- a child is born to the worker
- a child of 16 or less is placed for adoption with the worker
- the worker is donating an organ for a human organ transplant

To get this leave, the employee must have worked for the company for at least 12 months in a row.

The employee must be allowed to come back to the same job, or one like it, after the leave.

The federal Family and Medical Leave Act (29 U.S.C. § 2601) provides up to 12 weeks of unpaid but job-protected leave to employees of public agencies as well as private employers who have 50 or more workers within 75 miles. To qualify, you must have worked for your employer at least 1,250 hours in the previous year.

For more information, call Maine Department of Labor, Wage and Hour Division (207-624-6400, TTY 207-624-6003), or U.S. Department of Labor, Wage and Hour Division (207-780-3344 or 207-945-0330).



## Hiring and Firing

### Hiring

You cannot be denied a job or fired from a job because of:

- race
- gender
- age
- ancestry
- religion
- place of birth
- skin color
- disability

### Ending Employment

If you are fired, you can ask your employer why, and your employer must tell you in writing why you were fired within 15 days.

To get this notice, ask for it in writing.

Your employer may not fire you because:

- of illegal discrimination
- you refused to do an unsafe job
- you reported an unsafe condition
- you were called for jury duty
- your wages were garnished
- you filed a workers' compensation claim



### ? Frequently Asked Questions:

1. "Can I be fired without a good reason?"

*Yes. An employer can fire an employee without notice or cause as long as you are not discriminated against.*

*There may be a union agreement that says you can only be fired for certain reasons. In that case, the contract rule must be followed.*

2. "What if my employer discriminated against me when I was fired?"

*This is against the law if it is considered discrimination under human rights law. If you think there was discrimination, call the Maine Human Rights Commission (207-624-6050, TTY 207-624-6064).*

3. "When does my employer have to pay my last wages after I get done?"

*Your employer must pay your wages plus any vacation pay due by the next regular pay day after your job ends (not more than two (2) weeks). You must go in person and request your pay on or after the*

*regular pay date. If your employer will not pay, you can file a complaint with the Maine Department of Labor, Wage and Hour Division (207-624-6400, TTY 207-624-6003).*

4. "How do I know if I have a right to severance pay?"

*You sometimes have a right to severance pay if the company has moved 100 miles or more away or has shut down, and the company employed over 100 people during the year.*

## Mediation

If a dispute occurs and legal action is needed, you can get free advice from a mediator who can help you find answers that both you and your employer can live with. Call the Maine Association of Dispute Resolution Professionals for more information (207-865-9588).



## Overtime

### Limits on Mandatory Overtime

An employer may not require an employee to work more than 80 hours of overtime in any consecutive two-week period. There are exceptions, such as emergency, essential services and salaried executive employees; agricultural workers and others.

A nurse who has worked 12 mandatory hours may not be disciplined for refusing to work additional hours and must be allowed at least 10 hours off following any such period. (There are exceptions to this law.)

## Pension and Health Benefits

### ERISA

Federal Law (ERISA at 29 U.S.C. § 1001) protects your benefit plans, including pension and health insurance. You can obtain a summary of your employer's retirement plan. If you do not get it, the person in charge may have to pay you

money and attorney's fees for getting it.

For more information, call U.S. Department of Labor, Employee Benefits and Security Administration (1-866-275-7922, TTY 1-877-889-5627).

## **COBRA**

Federal law (COBRA at 29 U.S.C. § 1161(a)) also gives you the right to have your medical insurance continued for 18 months after your employment ends, at your expense.

For more information, call U.S. Department of Labor, Pension and Welfare Benefits Administration (617-565-9600).

## **Preference for Maine Workers and Contractors**

State law (26 M.R.S.A. § 1301-1315) gives preference to Maine workers and contractors on state-funded construction jobs over \$10,000. It also sets a prevailing minimum wage rate for construction projects for these jobs.

## **Privacy**



You can see your entire personnel file and make a copy at your expense. You can do this while you are employed or after you leave the workplace.

Ask, in writing, to see your file.

You must have access to your file during normal working hours within 10 days after your employer gets your written request.

Employers may not use lie detectors as a condition of employment.

## Required Posters

Employers must display certain posters in the workplace where workers can see them.

“*Business Answers*” can send you the following posters free of charge. Call 1-800-872-3838 or 207-624-9804 (in-state), 1-800-541-5872 (out-of-state), TTY 207-287-2656. For more information about individual posters, call the agencies listed.

### State of Maine Required Posters

Minimum Wage	Maine Dept. of Labor 207-624-6400, TTY 207-624-6003
Whistleblowers Protection Act	Maine Dept. of Labor 207-624-6400, TTY 207-624-6003
Workers' Compensation	Maine Workers' Compensation Commission 207-287-3751, TTY 207-287-6119
Video Display Terminal Law (where employees use computers 4 or more hours a day)	Maine Dept. of Labor 207-624-6400, TTY 207-624-6003
Notice Relative to the Regulation of Employment (includes child labor)	Maine Dept. of Labor 207-624-6400, TTY 207-624-6003
Occupational Safety and Health Regulations (for public places of employment only)	Maine Dept. of Labor 207-624-6400, TTY 207-624-6003
Sexual Harassment	Maine Human Rights Commission, 207-624-6050, TTY 207-624-6064

### Federal Government Required Posters

Equal Employment Opportunity is the Law	U.S. Equal Opportunity Commission 1-800-669-3362, TTY 1-800-800-3302
Fair Labor Standards Act-Federal Minimum Wage	U.S. Department of Labor, Wage and Hour Division 207-780-3344 or 207-945-0330
Employee Polygraph Protection Act	U.S. Department of Labor, Wage and Hour Division 207-780-3344 or 207-945-0330
Family and Medical Leave Act (for employers with 50 or more employees)	U.S. Department of Labor, Wage and Hour Division 207-780-3344 or 207-945-0330
You Have a Right to a Safe and Healthful Workplace (for private businesses)	U.S. Department of Labor, OSHA, 207-941-8177 or 207-626-9160

The Maine Employment Security Act poster is required for employers who must pay unemployment tax, and must be ordered directly from the Unemployment Compensation Bureau of the Maine Department of Labor (207-287-3176)

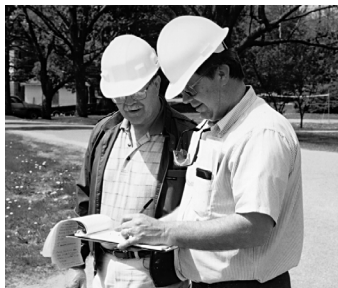


## Safety and Health

Everyone wants a safe and healthy place to work.

Employers must make workplaces safe.

Workers must follow health and safety rules.



The Federal Occupational Safety and Health Administration (OSHA) looks out for health and safety in private workplaces.

The Maine Department of Labor checks public workplaces.

If you work on a computer four (4) or more hours a day, a law requires that you have special training to help you operate your equipment safely.

### **? Frequently Asked Questions:**

1. "Can I say 'No' to a job I think is unsafe?"

*If you think the job could cause death or serious injury, you can refuse. You must tell your employer of the danger and ask that it be fixed.*

2. "What do I do if my employer does not fix the hazard?"

*If your employer does not act to fix the problem, report your concern to OSHA (for private companies) or the Maine Department of Labor (for public work sites).*

3. "What does Right to Know mean?"

*You have a right to know if chemicals or other things that can cause harm are in the workplace.*

*Your employer must tell you about these things and train you in their safe use.*

The Maine Department of Labor has free safety and health information and training through the SafetyWorks! program.  
(1-877-SAFE-345, 1-877-723-3345)

## **Smoking**

All employers in Maine must have a written policy to protect the employer and the employee from secondhand tobacco smoke. Employers may ban smoking entirely. Inside buildings where people work, smoking can only be allowed in a designated smoking area that is enclosed and separately ventilated. It must keep smoke from going into the work area. Employers may not discriminate against employees who use tobacco outside the course of employment.

For more information, call:

Maine Department of Human Services  
Partnership for a Tobacco-Free Maine  
(207-287-6027, TTY 207-287-8015)

## **Unemployment Insurance**

Unemployment benefits come from taxes paid by employers on wages of their workers. These taxes are put in a special trust fund that is used solely to pay unemployment benefits to workers who lose their jobs through no fault of their own. The benefits are intended to be temporary to help people with basic needs while seeking new employment.

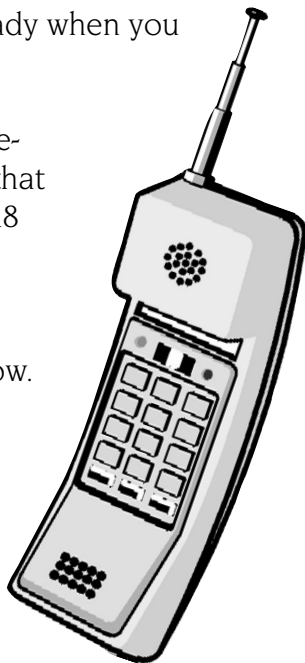
In many cases, unemployment benefits are available up to 26 weeks. The actual amount of benefits a person receives is based on wages earned during a specific time frame. People eligible for unemployment insurance must be:

- Partially or totally unemployed
- Able and willing to work
- Willing to accept work they are able to do

You can file a claim for unemployment insurance by calling the Unemployment Call Center at 1-800-593-7660, TTY 1-888-457-8884. You can get a claim form from the CareerCenter or at many Town Offices. You also may use a telephone, free of charge, at any CareerCenter to file a claim.

Have the following information ready when you apply:

1. Your social security number
2. The names, addresses, and telephone numbers of employers that you worked for during the last 18 months.
3. When you started work.
4. When you stopped work.
5. Reason you are not working now.



## Wages

- The minimum wage is \$6.25 per hour. As of October 1, 2004, the minimum wage will be \$6.35 per hour. It will change to \$6.50 on October 1, 2005.
- Maine does not have a training wage or student wage below the minimum.
- Tipped employees must be paid at least one-half minimum wage. If this rate plus tips for the week does not average the minimum wage, the employer must pay the difference.
- Employees get overtime pay of 1½ times their hourly rate after 40 hours of work per week. This applies to most employees. A poster stating these rules must be shown in the workplace.
- Executive, administrative or professional employees are exempt from minimum wage and overtime. They must be paid a minimum weekly salary of \$366.35 (\$375.00 starting October 1, 2005). Federal laws may be different.
- Employers must pay wages to employees on an established day or date at regular intervals not to exceed 16 days.
- Employees must be paid for the work performed. Employees who leave a job must be paid in full within a reasonable time.
- Employers cannot deduct from an employee's pay for things such as broken merchandise or bills not paid by customers.
- Employees of businesses that close can receive up to two (2) weeks pay through the Maine Wage Assurance Fund if the business does not have the money to pay the wages.
- Employers may not discriminate on the basis of gender by paying a rate less than the rate paid an employee of the opposite sex for comparable work.
- Most of the wage laws do not apply to agriculture.
- An employer who violates employment laws may have to pay penalties, additional wages and lawyers' fees.



## **? Frequently Asked Questions:**

1. "If a holiday occurs on a work day, does my employer have to pay overtime for working the holiday?"

*No. An employer does not have to pay overtime for less than 40 hours a week worked.*

2. "My employer changed my regular schedule and now says I have to work overtime. I wasn't told this when I was hired. Is this legal?"

*Yes. Employers have the right to change work schedules. They can require you to work overtime, but not in excess of 80 hours of actual overtime in any two-week period.*

3. "Does my employer have to pay benefits like sick time, vacation or holidays?"

*No. Paid benefits are extras. They are not required by law.*

## **Whistleblowers Protection Act**

It is against the law (26 M.R.S.A. §§ 831-840) for an employer to fire or threaten you because:

- you reported a law violation;
- you reported a risk to health and safety;
- you would not do something that was a danger to your life or to someone else's;
- you are part of a government investigation; or
- you are a healthcare worker and you reported a medical error.

You are protected by this law ONLY if you tell your supervisor about what you think is wrong. You must allow enough time for your supervisor to correct the problem unless you have a good reason to think that he or she will not fix it.

A poster about this must be at your workplace.

## **? Frequently Asked Questions:**

1. "Can I be fired if I report a workplace problem or violation?"

*It is against the law to fire someone for reporting a workplace problem or violation.*

2. "If I lose my job for what looks like discrimination, what should I do?"

*File a complaint with the Maine Human Rights Commission within six (6) months of the end of your employment.*

For more information, call Maine Human Rights Commission (207-624-6050, TTY 207-624-6064).

## **Workers' Compensation**

This is insurance paid for by the employer. It gives benefits to employees who get hurt on the job.

Most public and private employers have this insurance for their workers. You must follow the rules to get the benefits.

Check the poster which must be at the workplace for more information.

### **? Frequently Asked Questions:**

1. "If I get hurt at work, what should I do?"

*Tell your supervisor or a manager as soon as you can.*

2. "What should my employer do?"

*Your employer must fill out a "first report" of the injury within seven (7) days. You should get a copy. If you lost a day at work, your employer will notify the Workers' Compensation Board. If your employer does not do this, call a regional Workers' Compensation Board office. Ask to speak to a Troubleshooter.*



3. "What if my employer won't pay my claim?"

*If this happens, your employer will file a Notice of Controversy (NOC). This will say why the employer does not want to pay your claim.*

*If your employer files a NOC, a Troubleshooter will call you to hear your side. If you know about the NOC and a Troubleshooter has not called you within two (2) weeks, call a regional Workers' Compensation Board office and ask to speak to a Troubleshooter.*

## **Workers' Compensation office telephone numbers:**

Augusta	207-287-2308 or 1-800-400-6854 TTY 207-287-6119
Bangor	207-941-4550 or 1-800-400-6856
Caribou	207-498-6428 or 1-800-400-6855
Lewiston	207-753-7700 or 1-800-400-6857
Portland	207-822-0840 or 1-800-400-6858

## **Resources**

### **State Government Agencies**

#### **Maine Department of Labor**

45 State House Station, Augusta, ME 04333-0045  
207-624-6400  
TTY 207-624-6003  
[www.Maine.gov/labor/](http://www.Maine.gov/labor/)  
e-mail: [webmaster.bls@Maine.gov](mailto:webmaster.bls@Maine.gov)

#### **Maine Human Rights Commission**

51 State House Station, Augusta, ME 04333-0051  
207-624-6050  
TTY 207-624-6064  
[www.Maine.gov/mhrc](http://www.Maine.gov/mhrc)

#### **Maine Department of Human Services**

Partnership for a Tobacco-Free Maine  
11 State House Station, Augusta, ME 04333-0011  
207-287-6027  
TTY 207-287-8015  
[www.tobaccofreemaine.org](http://www.tobaccofreemaine.org)

#### **Maine Labor Relations Board**

90 State House Station, Augusta, ME 04333-0090  
207-287-2015  
TTY 207-287-4330  
[www.Maine.gov/mlrb/homemlr.htm](http://www.Maine.gov/mlrb/homemlr.htm)



## **Maine Workers' Compensation Board**

24 Stone St., Augusta, ME 04330-5220

207-287-2308

TTY 207-287-6119

[www.Maine.gov/wcb/](http://www.Maine.gov/wcb/)

## **Federal Government Agencies**

### **National Labor Relations Board**

Thomas P. O'Neill, Jr., Federal Building

10 Causeway Street, Rm 601, Boston, MA 02222-1072

617-565-6700

TTY 617-565-3204

[www.nlr.gov](http://www.nlr.gov)

### **U.S. Equal Employment Opportunity Commission**

JFK Federal Bldg., Room 475, Government Center

Boston, MA 02203

1-800-669-4000 or 617-565-3200

[www.eeoc.gov](http://www.eeoc.gov)

### **U.S. Department of Labor**

Wage and Hour Division

207-780-3344 and 207-945-0330

[www.dol.gov](http://www.dol.gov)

Occupational Safety and Health Administration (OSHA)

District Office 207-941-8177

Area Office

40 Western Avenue, Suite G26, Augusta, ME 04330

207-626-9160

[www.osha.gov](http://www.osha.gov)

Employee Benefits and Security Administration

617-565-9600

[www.dol.gov/ebsa](http://www.dol.gov/ebsa)



